IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

Bail Appl..No. 7357 of 2006()

C.R. NO. 48/06 OF EXCISE RANGE, CHIRAYINKEEZHU
CMP.4133/2006 of J.M.F.C.-I,ATTINGAL

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PETITIONERS/ACCUSED

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1. JINIL, S/O.VARGHESE,
THADATHIL VEEDU, EZHAKKARANADU DESOM,
MANEED VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

2. BIJO ELIAS, S/O.ELIAS,
VADAKKEVATTIKUZHI VEEDU, EZHAKKARANADU DESOM,
MANEED VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.M.S.MANIKANDAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE EXCISE INSPECTOR, EXCISE RANGE,
CHIRAYINKEEZHU.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Bail Application No. 7357 of 2006

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DATED: 12-12-2006

O R D E R

Petitioners who are accused Nos. 1 and 2 in C.R. No. 48/06 of Excise Range, Chirayinkeezhu for an offence punishable under Sec. 55(g) of the Abkari Act for allegedly transporting 3399 liters of spirit on 18-10-2006 and who were arrested on the same day, seek their enlargement on bail.

2. It is admitted by the learned Public Prosecutor that no final report has been filed even after 60 days of detention of the petitioners. If so, the petitioners are entitled to bail as of right under the proviso to Sec. 167 (1) Cr.P.C. Accordingly, the petitioners are directed to be released on bail on each of them executing a bond for Rs. 20,000/- (Rupees twenty thousand only) with two solvent sureties each for the like amount to the satisfaction of the J.F.C.M -I, Attingal and subject to the following conditions:

1. The petitioners shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays.

2. The petitioners shall not influence or intimidate the prosecution witnesses nor shall he attempt to tamper with the evidence for the prosecution.

3. The petitioners shall not commit any offence while on bail.

3. If the petitioners commit breach of any of the above conditions, the bail granted to them shall be liable to be cancelled.

4. It has come to the notice of this Court that in several abkari cases involving spirit, no charge is filed within the statutory period of 60 days resulting in the inevitable release of the accused on bail due to the statutory compulsion under the proviso to Sec. 167 (1) Cr.P.C. It is not known whether the failure to file charge-sheet within the statutory period is deliberate or or due to justifiable reasons. This matter has definitely to be brought to the notice of the Chief Secretary for appropriate remedial measures, if need be.

5. A copy of this order shall be forwarded to the Chief Secretary for information and necessary prophylactic action.

This application is allowed as above.

Sd/-V.RAMKUMAR,
JUDGE.

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